

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 0:22-cv-60884-KMM

BOYD JOHNSON,

Plaintiff,

v.

PUBLIX SUPER MARKETS, INC., *et al.*,

Defendants.

/

ORDER ON REPORT AND RECOMMENDATION

THIS CAUSE came before the Court upon Defendant Publix Super Markets, Inc (“Publix”)’s Motion to Dismiss Plaintiff’s Verified Complaint. (“Motion” or “Mot”) (ECF No. 8). The matter was referred to the Honorable Lauren Fleischer Louis, United States Magistrate Judge. (ECF Nos. 4, 18–19). On December 27, 2022, Magistrate Judge Louis issued a Report and Recommendation, (“R&R”) (ECF No. 49), recommending the Motion be GRANTED IN PART as to Plaintiff’s sole federal claim, and that the balance of Plaintiff’s claims be remanded for further proceedings. *See R&R at 9.* No objections to the R&R were filed, and the time to do so has passed. The matter is now ripe for review. As set forth below, the Court ADOPTS the R&R.

The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Crim. P. 59(b)(3). The Court “must consider *de novo* any objection to the magistrate judge’s recommendation.” Fed. R. Crim. P. 59(b)(3). A *de novo* review is therefore required if a party files “a proper, specific objection” to a factual finding contained in the report. *Macort v. Prem, Inc.*, 208 F. App’x 781, 784 (11th Cir. 2006). “It is critical that the objection be sufficiently specific and not a general

objection to the report” to warrant *de novo* review. *Id.* Yet when a party has not properly objected to the magistrate judge’s findings, “the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *See Keaton v. United States*, No. 14-21230-CIV, 2015 WL 12780912, at *1 (S.D. Fla. May 4, 2015); *see also Lopez v. Berryhill*, No. 17-CV-24263, 2019 WL 2254704, at *2 (S.D. Fla. Feb. 26, 2019) (stating that a district judge “evaluate[s] portions of the R & R not objected to under a clearly erroneous standard of review” (citing *Davis v. Apfel*, 93 F. Supp. 2d 1313, 1317 (M.D. Fla. 2000))).

In her Report and Recommendation, Magistrate Judge Louis concludes that: (1) Plaintiff has not exhausted his state administrative remedies as required to maintain a Title II claim, and that this defect can no longer be cured through amendment or otherwise, *see R&R* at 5–8; and (2) this Court should decline to exercise supplemental jurisdiction over the remaining state law claims where no federal question jurisdiction remains, *see id.* at 8–9. This Court agrees.

Accordingly, UPON CONSIDERATION of the Motion, the R&R, the pertinent portions of the record, and being otherwise fully advised in the premises, it is hereby ORDERED AND ADJUDGED that Magistrate Judge Louis’s R&R (ECF No. 49) is ADOPTED. Defendant Publix’s Motion is GRANTED IN PART. Count VI of Plaintiff’s Complaint is DISMISSED WITH PREJUDICE. Plaintiff’s remaining claims are hereby REMANDED to the Circuit Court of the 17th Judicial Circuit in and for Broward County for further proceedings. The Clerk of the Court is instructed to CLOSE this case. All pending motions, if any, are DENIED AS MOOT.

DONE AND ORDERED in Chambers at Miami, Florida, this 11th day of January, 2023.



K. MICHAEL MOORE
UNITED STATES DISTRICT JUDGE

c: All counsel of record